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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/826,286	04/04/2001	Kyle E. Gillman	00-318-US	3690

7590 08/26/2005

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EXAMINER

CHENCINSKI, SIEGFRIED E

ART UNIT	PAPER NUMBER
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3628

DATE MAILED: 08/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/826,286

Applicant(s)

GILLMAN, KYLE E.

Examiner

Siegfried E. Chencinski

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 April 2001.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-19 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____
- ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: _____

DETAILED ACTION

Specification

1. The abstract of the disclosure is objected to because of a typographical error. The word "submit" on line 7 should have an "s" at the end (spelled "submits") in order to have the proper tense in the phrase "The buyer submit", which is in the singular tense. Correction is required. See MPEP § 608.01(b).

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

2. **Claims 1-16 are rejected** because the claimed invention is directed to non-statutory subject matter. Claims 1-15 lack technological art because they are not directed to any one of the areas of patentable subject matter, such as product, process, process of making or composition.

For a claim to be statutory under 35 USC 101 the following two conditions must be met:

1) In the claim, the practical application of an algorithm or idea results in a useful, concrete, tangible result,

AND

2) The claim provides a limitation in the technological arts that enables a useful, concrete, tangible result.

The invention in the body of the claim must recite technology. If the invention in the body of the claim is not tied to technological art, environment, or machine, the claim is not statutory. Ex parte Bowman 61USPQ2d 1665, 1671 (BD. Pat. App. & Inter. 2001) (Unpublished).

According to the above guidelines, Applicant's claims are limited to the manipulation of abstract ideas in the context of patentability.

Applicant is advised to satisfy the statutory requirements for the claims. Applicant is also advised not to add any new matter to the specification or the claims.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. **Claim 12 is rejected** under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The claim contains a double negative, namely "the buyer's negative indication to not reveal". Such double negative language, since it is not clarified in the specification, leaves a cloud over the intended meaning of this claim limitation. Taken literally, the limitation appears to mean "the buyer is assessed a price quote fee in response to the buyer's indicated refusal to keep the supplier identification information confidential". If this is Applicant's intended meaning of this limitation the language should directly say so. If the intended meaning is that the buyer is assessed a price quote fee because he refuses to reveal supplier identities then the wording should directly say so as well. For examination purposes, the examiner is assuming that the buyer is refusing to keep supplier identities confidential.

Correction is required.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the

invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 9, 13 & 14 are rejected under 35 U.S.C. 103(a) as being disclosed by Shavit et al. (US Patent 4,799,156, hereafter Shavit) in view of Ben-Meir et al. (US PreGrant Publication 2003/0014326 A1, hereafter Ben-Meir).

Re. Claim 1, Shavit discloses a method of electronically matching a buyer requesting a good with an entity capable of providing said good, comprising the steps of:

- accepting a request for quote from the buyer describing the requested good (Col. 7, ll. 55-57. The acceptance of the RFQ from the buyer by the intermediary is implicit.);
- posting the request for quote to at least one supplier to initiate a bidding process (Col. 7, ll. 55-57; Col. 11, ll. 58-60);
- receiving at least one bid to supply said requested good from said at least one supplier (Col. 16, ll. 56-57, 60).

Shavit does not explicitly disclose closing the bidding process so that no additional bids can be received. However, Ben-Meir discloses the closing of a bid process ([0147]-I. 17). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir for the purpose of matching a buyer requesting a good with an entity capable of providing said good, motivated by a desire to streamline the bidding process in an environment of soliciting bids ([0009]-II. 4-5).

Re. Claim 9, neither Shavit nor Ben-Meir explicitly disclose a method wherein said closing step occurs in response to an indication from the buyer that the bidding process should be closed before a preset time period for the bidding process expires. However, it had been well known in the industrial and commercial purchasing, sales and customer service arts prior to applicant's invention that, unless a contract has been entered into with the facilitator or with any of the bidders which prevents the buyer from doing so, the buyer has the right to close the bidding process prior to the preset time, or, to extend it beyond the preset time. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found obvious to have combined the

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art of Shavit and Ben-Meir with the well known art of closing the bidding process prior to the preset time in order to prepare a method and system which can deal with changes in preset bid closing times, motivated by a desire to provide an on-line interactive concurrent electronic service which creates a marketplace which can serve a wide spectrum of buyers, wholesalers, distributors, suppliers, agents, and other service providers (Shavit, Col .1, ll. 62-65).

Re. Claim 13, Shavit discloses a method wherein said posting step comprises posting the request for quote only to a buyer-selected group of suppliers (Col. 2, ll. 25-32).

Re. Claim 14, neither Shavit nor Ben-Meir explicitly disclose a method wherein said supplier bid is a no quote bid without any pricing information. However, no quote bids which are submitted without pricing information had been well known in the industrial and commercial purchasing, sales and customer service arts prior to applicant's invention. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the well known art of no quote bids in order to prepare a method and system which can deal with no quote bids, motivated by a desire to provide an on-line interactive concurrent electronic service which creates a marketplace which can serve a wide spectrum of buyers, wholesalers, distributors, suppliers, agents, and other service providers (Shavit, Col .1, ll. 62-65).

4. Claims 2, 4-6, 8, 15 & 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit and BenMeir in view of Thackston (US Patent 6,295,513 B1)

Re. Claim 2, neither Shavit nor Ben-Meir explicitly disclose a method wherein said request for quote includes a product specification with blue print drawings in an electronic format. However, Thackston discloses a method wherein said request for quote includes a product specification with blue print drawings in an electronic format (Col. 1, ll. 41-45; Col. 5, ll. 55-64). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Thackston for the purpose of including a product specification with blue print drawings in an electronic format, motivated by a desire for a

network-based, interactive system capable of receiving specification and other information so that an engineering design for a product, represented by an electronic three-dimensional model, can be designed, developed and evaluated in a collaborative, virtual environment substantially obviating geographic, business and format boundaries (Thackston, Col. 3, ll. 53-59).

Re. Claim 4, neither Shavit nor Ben-Meir discloses a method further comprising the step of: receiving from the buyer an indication of a winning supplier bid, wherein said winning bid does not include the lowest price for which to provide said good. However, Thackston discloses a method further comprising the step of: receiving from the buyer an indication of a winning supplier bid, wherein said winning bid does not include the lowest price for which to provide said good (Col. 51, ll. 9-48). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Thackston wherein said winning bid does not include the lowest price for which to provide said good, motivated by a desire for a network-based, interactive system capable of receiving specification and other information so that an engineering design for a product, represented by an electronic three-dimensional model, can be designed, developed and evaluated in a collaborative, virtual environment substantially obviating geographic, business and format boundaries (Thackston, Col. 3, ll. 53-59).

Re. Claim 5, neither Shavit nor Ben-Meir discloses a method wherein one of said at least one supplier may submit multiple bids in response to said request for quote. However, Thackston discloses a method wherein one of said at least one supplier may submit multiple bids in response to said request for quote (Col. 49, ll. 31-37; Col. 51, ll. 7-8). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Thackston to enable a supplier to submit multiple bids in response to a request for quote, motivated by a desire for a network-based, interactive system capable of receiving specification and other information so that an engineering design for a product, represented by an electronic three-dimensional model, can be designed, developed and evaluated in a collaborative, virtual environment substantially obviating

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geographic, business and format boundaries (Thackston, Col. 3, ll. 53-59).

Re. Claim 6, neither Shavit nor Ben-Meir discloses a method wherein a second bid of said multiple bids from one of said at least one supplier includes a second pricing term that is greater than a first pricing term in a first bid from one of said at least one supplier, further wherein said second bid is received after said first bid is received.

However, Thackston discloses a method wherein a second bid of said multiple bids from one of said at least one supplier includes a second pricing term that is greater than a first pricing term in a first bid from one of said at least one supplier, further wherein said second bid is received after said first bid is received (Col. 49, ll. 31-37; Col. 51, ll. 9-18). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Thackston to enable a supplier to submit a second bid wherein the second bid containing a higher pricing term is received after a first bid is received, motivated by a desire for a network-based, interactive system capable of receiving specification and other information so that an engineering design for a product, represented by an electronic three-dimensional model, can be designed, developed and evaluated in a collaborative, virtual environment substantially obviating geographic, business and format boundaries (Thackston, Col. 3, ll. 53-59).

Re. Claim 8, neither Shavit nor Ben-Meir discloses a method wherein said closing step occurs in response to the expiration of a buyer-determined time to accept bids. However, Thackston discloses a method wherein said closing step occurs in response to the expiration of a buyer-determined time to accept bids (Col. 50, ll. 57-61). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Thackston to provide a closing step occurs in response to the expiration of a buyer-determined time to accept bids, motivated by a desire for a network-based, interactive system capable of receiving specification and other information so that an engineering design for a product, represented by an electronic three-dimensional model, can be designed, developed and evaluated in a collaborative, virtual environment substantially obviating geographic, business and format boundaries (Thackston, Col. 3, ll. 53-59).

Re. Claim 15, neither Shavit nor Ben-Meir Shavit discloses a method wherein said good is a customized forging. However, Thackston discloses a method wherein said good is a customized forging (Col. 26, ll. 6, 62-63). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Thackston to provide a discloses a method for purchasing a customized forging, motivated by a desire for a network-based, interactive system capable of receiving specification and other information so that an engineering design for a product, represented by an electronic three-dimensional model, can be designed, developed and evaluated in a collaborative, virtual environment substantially obviating geographic, business and format boundaries (Thackston, Col. 3, ll. 53-59).

Re. Claim 16, neither Shavit nor Ben-Meir Shavit discloses a method wherein said request for quote includes a detailed specification of said forging. However, Thackston discloses a method wherein said request for quote includes a detailed specification of said forging (Col. 26, ll. 6, 62-63; Col. 1, ll. 41-45; Col. 5, ll. 55-64; Col. 50, l. 31-42). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Thackston to provide a discloses a method for purchasing a customized forging wherein said request for quote includes a detailed specification of said forging, motivated by a desire for a network-based, interactive system capable of receiving specification and other information so that an engineering design for a product, represented by an electronic three-dimensional model, can be designed, developed and evaluated in a collaborative, virtual environment substantially obviating geographic, business and format boundaries (Thackston, Col. 3, ll. 53-59).

5. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit and BenMeir in view of De La Motte et al. (US PreGrant Publication 2003/0014318, hereafter De La Motte)

Re. Claim 3, Shavit discloses the applying on selection limiting criteria on suppliers, such as the buyer's supplier limiting the freight carriers he is willing to use (Col. 10, ll. 16-27). Neither Shavit nor Ben-Meir explicitly disclose a method wherein said request

for quote includes a country designation provided by the buyer which limits said posting step to suppliers from buyer-selected countries. However, De La Motte discloses the use of country supplier selection criteria by the buyer ([0032]-II. 10-12). An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of De La Motte for the purpose of matching a buyer requesting a good with an entity capable of providing said good, motivated by the desire to enable buyers and suppliers to fairly, efficiently, and knowledgeably negotiate directly among themselves for the purchase and sale of products; including products whose values are based, at least in part, on subjective criteria (De La Motte, [0011]-II. 4-8).

6. Claims 7, 10 & 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit and BenMeir in view of Johnson et al. (US PreGrant Publication 2002/0091626, hereafter Johnson).

Re. Claim 7, neither Shavit nor Ben-Meir explicitly discloses a method wherein at least one received bid is self-adjusting. However, Johnson discloses volume discounts, which are one example of a self-adjusting bid ([0027]-I. 4). Self-adjusting bids have been well known for a long time, generally in the quantity or volume discount form. They can apply to tock items or custom made products. The following is an example for a custom make bid: a quantity of one item made to the buyer's specification has a highest unit price P. A quantity of two to four ordered together has the lower unit price of P-a. A quantity of five to nine ordered together has an even lower price of P-b, and so forth. There are many variations. An ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Johnson for the purpose of enabling self-adjusting bids to be offered and received, motivated by the desire to stimulate competition by enabling sellers to offer economic options and to offer more economic choices to buyers (Johnson, [0019]-II. 10-14).

Re. Claim 10, neither Shavit nor Ben-Meir explicitly discloses a method further including the step of: after said closing step, prompting the buyer to choose whether to reveal previously concealed identification information for all sellers that submitted bids. However, Johnson discloses the step of decision making by the buyer or the intermediary for revealing previously concealed identification information of buyers and sellers, for all sellers that submitted bids and bid data of each bidder ([0105], [0106], [0111], [0112], [0113]). It would have been obvious to an ordinary practitioner that industry circumstances of seller bidders and of buyers are important considerations in determining whether a buyer or the intermediary would make this decision, and that the decision to have the buyer determine who decides is up to negotiation between a buyer and the middleman entity. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Johnson for the purpose of enabling and prompting the buyer to choose whether to reveal previously concealed identification information for all sellers that submitted bids, motivated by the desire to stimulate competition by enabling sellers to offer economic options and to offer more economic choices to buyers (Johnson, [0019]-II. 10-14).

Re. Claim 11, neither Shavit nor Ben-Meir explicitly discloses a method wherein the buyer is contractually bound to purchase said good in response to the buyer's affirmative indication to reveal supplier identification information. However, Johnson discloses numerous considerations involved in the disclosure of seller and buyer identities to the bidding and buying counter parties ([0105], [0106], [0111], [0112], [0113]). Further, an ordinary practitioner of the art would have realized that he needed to make it a contractual requirement of buyers to enter into a binding purchase agreement for the item(s) which were the subject of the bidding before bidder identities could be revealed, since bidders have the right to expect that a sales benefit will legitimately accrue to the winning bidder. A binding purchase is the proof of that legitimacy. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit and Ben-Meir with the art of Johnson with common motivational considerations for the purpose

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of contractually binding a buyer to purchase a good which has been the object of bidding in response to the buyer's affirmative indication to reveal supplier identification information, motivated by the desire to stimulate competition by enabling sellers to offer economic options and to offer more economic choices to buyers (Johnson, [0019]-II. 10-14).

7. Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over Shavit and BenMeir in view of Johnson and further in view of DeWolf et al. (US PreGrant Publication 2002/0032626, hereafter DeWolf).

Re. Claim 12, neither Shavit nor Ben-Meir explicitly discloses a method wherein the buyer is assessed a price quote fee in response to the buyer's negative indication to not reveal supplier identification information. The examiner assumes that this limitation means that "the buyer is assessed a price quote fee in response to the buyer's indicated refusal to keep the supplier identification information confidential". In the art, the practice of maintaining supplier identities confidential and of providing supplier identities are both practiced. Johnson discloses the practice of providing bidding supplier identities to all bidders after bidding has closed and a winning bidder has been selected ([0105], [0106], [0111], [0112], [0113]). Further, DeWolf discloses the use of incentive fees in relation to auctions ([0013]-I.4-5, [0175]-II. 15-17). Incentive fees can be used to pay someone if they do something or to not charge a fee, such a fee for a service, if the participant agrees to do something, so it is perceived as a reward for participation and abiding by certain rules of participation. In this case, the ordinary practitioner would have applied DeWolf's disclosure by assessing a price quote fee as a contractual requirement and incentive for participating buyers in order to motivate such buyers to avoid the fee by agreeing to provide the benefit of competitor bid feedback to both winning and losing bidders as valuable competitive intelligence for future bid decisions. The intermediary's motivation is to provide the incentive of obtaining competitive quote information by participating in bidding through the intermediary's service. Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit

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and Ben-Meir with the art of Johnson and DeWolf by assessing the buyer a price quote fee in response to the buyer's indicated refusal to keep the supplier identification information confidential, motivated by the desire to stimulate competition by enabling sellers to offer economic options and to offer more economic choices to buyers (Johnson, [0019]-II. 10-14).

8. Claims 17-19 are rejected under 35 U.S.C. 102(b) as being disclosed by Shavit in view of Shane (US Patent 5,793,972).

Re. Claim 17, Shavit discloses a reverse auction purchasing system, comprising:

- an information database (Fig's 1&2; Col. 2, II. 20-36); and
- a web server capable of presenting and receiving electronic information to at least one supplier and at least one buyer (Fig's 1&2; Col. 2, II. 20-36).

Shavit does not explicitly disclose personalized home pages. However, Shane discloses personalized home pages (Abstract, Fig's 1 & 2). Therefore, an ordinary practitioner of the art at the time of Applicant's invention would have found it obvious to have combined the art of Shavit with the art of Shane by including a personalized home page feature in a reverse auction purchasing system, motivated by the desire to stimulate transactions by providing the personalized one-to-one communication provided by direct mail (Shane, Col. 2, II. 14-15).

Re. Claim 18, Shavit discloses a method wherein said web server is capable of setting up a private auction center between a buyer and the buyer's pre-selected suppliers (Fig's 1&2; Col. 2, II. 20-36).

Re. Claim 19, Shavit discloses a method wherein said personalized home pages include at least one buyer home page and at least one supplier home page (Fig's 1&2; Col. 2, II. 20-36).

Conclusion

9. Any inquiry concerning this communication or earlier communications from the Examiner should be directed to Siegfried Chencinski whose telephone number is (571)272-6792. The Examiner can normally be reached Monday through Friday, 9am to 6pm.

If attempts to reach the Examiner by telephone are unsuccessful, the Examiner's supervisor, Hyung S. Souh, can be reached on (571) 272-6799.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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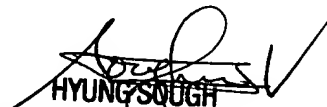
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Hand delivered responses should be brought to the address found on the above
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SEC

August 16, 2005


HYUNG SOUH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3600